

1 AMENDMENT TO HOUSE BILL 4409

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4409 by replacing  
3 the title with the following:

4 "AN ACT concerning financial institutions."; and

5 by replacing everything after the enacting clause with the  
6 following:

7 "Section 5. The Metropolitan Transit Authority Act is  
8 amended by changing Section 25 as follows:

9 (70 ILCS 3605/25) (from Ch. 111 2/3, par. 325)

10 Sec. 25. All funds deposited by the treasurer in any  
11 bank, savings bank, or savings and loan association shall be  
12 placed in the name of the Authority and shall be withdrawn or  
13 paid out only by check or draft upon the bank, savings bank,  
14 or savings and loan association, signed by the treasurer or  
15 an assistant treasurer and countersigned by the chairman of  
16 the Board or a vice-chairman of the Board. The Board may  
17 designate any of its members or any officer or employee of  
18 the Authority to affix the signature of the chairman and  
19 another to affix the signature of the treasurer to any check  
20 or draft for payment of salaries or wages and for the payment  
21 of any other obligation of not more than \$2500.00.

1           No bank, savings bank, or savings and loan association  
2 shall receive public funds as permitted by this Section,  
3 unless it has complied with the requirements established  
4 pursuant to Section 6 of "An Act relating to certain  
5 investments of public funds by public agencies", approved  
6 July 23, 1943, as now or hereafter amended.

7           (Source: P.A. 83-541.)

8           Section 10. The Illinois Banking Act is amended by  
9 changing Sections 5, 18, 46, and 48.4 as follows:

10           (205 ILCS 5/5) (from Ch. 17, par. 311)

11           Sec. 5. General corporate powers. A bank organized  
12 under this Act or subject hereto shall be a body corporate  
13 and politic and shall, without specific mention thereof in  
14 the charter, have all the powers conferred by this Act and  
15 the following additional general corporate powers:

16           (1) To sue and be sued, complain, and defend in its  
17 corporate name.

18           (2) To have a corporate seal, which may be altered at  
19 pleasure, and to use the same by causing it or a facsimile  
20 thereof to be impressed or affixed or in any manner  
21 reproduced, provided that the affixing of a corporate seal to  
22 an instrument shall not give the instrument additional force  
23 or effect, or change the construction thereof, and the use of  
24 a corporate seal is not mandatory.

25           (3) To make, alter, amend, and repeal bylaws, not  
26 inconsistent with its charter or with law, for the  
27 administration of the affairs of the bank. If this Act does  
28 not provide specific guidance in matters of corporate  
29 governance, the provisions of the Business Corporation Act of  
30 1983 may be used if so provided in the bylaws.

31           (4) To elect or appoint and remove officers and agents  
32 of the bank and define their duties and fix their

1 compensation.

2 (5) To adopt and operate reasonable bonus plans,  
3 profit-sharing plans, stock-bonus plans, stock-option plans,  
4 pension plans and similar incentive plans for its directors,  
5 officers and employees.

6 (5.1) To manage, operate and administer a fund for the  
7 investment of funds by a public agency or agencies, including  
8 any unit of local government or school district, or any  
9 person. The fund for a public agency shall invest in the  
10 same type of investments and be subject to the same  
11 limitations provided for the investment of public funds. The  
12 fund for public agencies shall maintain a separate ledger  
13 showing the amount of investment for each public agency in  
14 the fund. "Public funds" and "public agency" as used in this  
15 Section shall have the meanings ascribed to them in Section 1  
16 of the Public Funds Investment Act.

17 (6) To make reasonable donations for the public welfare  
18 or for charitable, scientific, religious or educational  
19 purposes.

20 (7) To borrow or incur an obligation; and to pledge its  
21 assets:

22 (a) to secure its borrowings, its lease of personal  
23 or real property or its other nondeposit obligations;

24 (b) to enable it to act as agent for the sale of  
25 obligations of the United States;

26 (c) to secure deposits of public money of the  
27 United States, whenever required by the laws of the  
28 United States, including without being limited to,  
29 revenues and funds the deposit of which is subject to the  
30 control or regulation of the United States or any of its  
31 officers, agents, or employees and Postal Savings funds;

32 (d) to secure deposits of public money of any state  
33 or of any political corporation or subdivision thereof  
34 including, without being limited to, revenues and funds

1 the deposit of which is subject to the control or  
2 regulation of any state or of any political corporation  
3 or subdivisions thereof or of any of their officers,  
4 agents, or employees;

5 (e) to secure deposits of money whenever required  
6 by the National Bankruptcy Act;

7 (f) (blank); and

8 (g) to secure trust funds commingled with the  
9 bank's funds, whether deposited by the bank or an  
10 affiliate of the bank, pursuant to Section 2-8 of the  
11 Corporate Fiduciary Act.

12 (8) To own, possess, and carry as assets all or part of  
13 the real estate necessary in or with which to do its banking  
14 business, either directly or indirectly through the ownership  
15 of all or part of the capital stock, shares or interests in  
16 any corporation, association, trust engaged in holding any  
17 part or parts or all of the bank premises, engaged in such  
18 business and in conducting a safe deposit business in the  
19 premises or part of them, or engaged in any activity that the  
20 bank is permitted to conduct in a subsidiary pursuant to  
21 paragraph (12) of this Section 5.

22 (9) To own, possess, and carry as assets other real  
23 estate to which it may obtain title in the collection of its  
24 debts or that was formerly used as a part of the bank  
25 premises, but title to any real estate except as herein  
26 permitted shall not be retained by the bank, either directly  
27 or by or through a subsidiary, as permitted by subsection  
28 (12) of this Section for a total period of more than 10 years  
29 after acquiring title, either directly or indirectly.

30 (10) To do any act, including the acquisition of stock,  
31 necessary to obtain insurance of its deposits, or part  
32 thereof, and any act necessary to obtain a guaranty, in whole  
33 or in part, of any of its loans or investments by the United  
34 States or any agency thereof, and any act necessary to sell

1 or otherwise dispose of any of its loans or investments to  
2 the United States or any agency thereof, and to acquire and  
3 hold membership in the Federal Reserve System.

4 (11) Notwithstanding any other provisions of this Act or  
5 any other law, to do any act and to own, possess, and carry  
6 as assets property of the character, including stock, that is  
7 at the time authorized or permitted to national banks by an  
8 Act of Congress, but subject always to the same limitations  
9 and restrictions as are applicable to national banks by the  
10 pertinent federal law and subject to applicable provisions of  
11 the Financial Institutions Insurance Sales Law.

12 (12) To own, possess, and carry as assets stock of one  
13 or more corporations that is, or are, engaged in one or more  
14 of the following businesses:

15 (a) holding title to and administering assets  
16 acquired as a result of the collection or liquidating of  
17 loans, investments, or discounts; or

18 (b) holding title to and administering personal  
19 property acquired by the bank, directly or indirectly  
20 through a subsidiary, for the purpose of leasing to  
21 others, provided the lease or leases and the investment  
22 of the bank, directly or through a subsidiary, in that  
23 personal property otherwise comply with Section 35.1 of  
24 this Act; or

25 (c) carrying on or administering any of the  
26 activities excepting the receipt of deposits or the  
27 payment of checks or other orders for the payment of  
28 money in which a bank may engage in carrying on its  
29 general banking business; provided, however, that nothing  
30 contained in this paragraph (c) shall be deemed to permit  
31 a bank organized under this Act or subject hereto to do,  
32 either directly or indirectly through any subsidiary, any  
33 act, including the making of any loan or investment, or  
34 to own, possess, or carry as assets any property that if

1 done by or owned, possessed, or carried by the State bank  
2 would be in violation of or prohibited by any provision  
3 of this Act.

4 The provisions of this subsection (12) shall not apply to  
5 and shall not be deemed to limit the powers of a State bank  
6 with respect to the ownership, possession, and carrying of  
7 stock that a State bank is permitted to own, possess, or  
8 carry under this Act.

9 Any bank intending to establish a subsidiary under this  
10 subsection (12) shall give written notice to the Commissioner  
11 60 days prior to the subsidiary's commencing of business or,  
12 as the case may be, prior to acquiring stock in a corporation  
13 that has already commenced business. After receiving the  
14 notice, the Commissioner may waive or reduce the balance of  
15 the 60 day notice period. The Commissioner may specify the  
16 form of the notice and may promulgate rules and regulations  
17 to administer this subsection (12).

18 (13) To accept for payment at a future date not  
19 exceeding one year from the date of acceptance, drafts drawn  
20 upon it by its customers; and to issue, advise, or confirm  
21 letters of credit authorizing the holders thereof to draw  
22 drafts upon it or its correspondents.

23 (14) To own and lease personal property acquired by the  
24 bank at the request of a prospective lessee and upon the  
25 agreement of that person to lease the personal property  
26 provided that the lease, the agreement with respect thereto,  
27 and the amount of the investment of the bank in the property  
28 comply with Section 35.1 of this Act.

29 (15) (a) To establish and maintain, in addition to the  
30 main banking premises, branches offering any banking  
31 services permitted at the main banking premises of a  
32 State bank.

33 (b) To establish and maintain, after May 31, 1997,  
34 branches in another state that may conduct any activity

1 in that state that is authorized or permitted for any  
2 bank that has a banking charter issued by that state,  
3 subject to the same limitations and restrictions that are  
4 applicable to banks chartered by that state.

5 (16) (Blank).

6 (17) To establish and maintain terminals, as authorized  
7 by the Electronic Fund Transfer Act.

8 (18) To establish and maintain temporary service booths  
9 at any International Fair held in this State which is  
10 approved by the United States Department of Commerce, for the  
11 duration of the international fair for the sole purpose of  
12 providing a convenient place for foreign trade customers at  
13 the fair to exchange their home countries' currency into  
14 United States currency or the converse. This power shall not  
15 be construed as establishing a new place or change of  
16 location for the bank providing the service booth.

17 (19) To indemnify its officers, directors, employees,  
18 and agents, as authorized for corporations under Section 8.75  
19 of the Business Corporation Act of 1983.

20 (20) To own, possess, and carry as assets stock of, or  
21 be or become a member of, any corporation, mutual company,  
22 association, trust, or other entity formed exclusively for  
23 the purpose of providing directors' and officers' liability  
24 and bankers' blanket bond insurance or reinsurance to and for  
25 the benefit of the stockholders, members, or beneficiaries,  
26 or their assets or businesses, or their officers, directors,  
27 employees, or agents, and not to or for the benefit of any  
28 other person or entity or the public generally.

29 (21) To make debt or equity investments in corporations  
30 or projects, whether for profit or not for profit, designed  
31 to promote the development of the community and its welfare,  
32 provided that the aggregate investment in all of these  
33 corporations and in all of these projects does not exceed 10%  
34 of the unimpaired capital and unimpaired surplus of the bank

1 and provided that this limitation shall not apply to  
2 creditworthy loans by the bank to those corporations or  
3 projects. Upon written application to the Commissioner, a  
4 bank may make an investment that would, when aggregated with  
5 all other such investments, exceed 10% of the unimpaired  
6 capital and unimpaired surplus of the bank. The Commissioner  
7 may approve the investment if he is of the opinion and finds  
8 that the proposed investment will not have a material adverse  
9 effect on the safety and soundness of the bank.

10 (22) To own, possess, and carry as assets the stock of a  
11 corporation engaged in the ownership or operation of a travel  
12 agency or to operate a travel agency as a part of its  
13 business.

14 (23) With respect to affiliate facilities:

15 (a) to conduct at affiliate facilities for and on  
16 behalf of another commonly owned bank, if so authorized  
17 by the other bank, all transactions that the other bank  
18 is authorized or permitted to perform; and

19 (b) to authorize a commonly owned bank to conduct  
20 for and on behalf of it any of the transactions it is  
21 authorized or permitted to perform at one or more  
22 affiliate facilities.

23 Any bank intending to conduct or to authorize a commonly  
24 owned bank to conduct at an affiliate facility any of the  
25 transactions specified in this paragraph (23) shall give  
26 written notice to the Commissioner at least 30 days before  
27 any such transaction is conducted at the affiliate facility.

28 (24) To act as the agent for any fire, life, or other  
29 insurance company authorized by the State of Illinois, by  
30 soliciting and selling insurance and collecting premiums on  
31 policies issued by such company; and to receive for services  
32 so rendered such fees or commissions as may be agreed upon  
33 between the bank and the insurance company for which it may  
34 act as agent; provided, however, that no such bank shall in

1 any case assume or guarantee the payment of any premium on  
2 insurance policies issued through its agency by its  
3 principal; and provided further, that the bank shall not  
4 guarantee the truth of any statement made by an assured in  
5 filing his application for insurance.

6 (25) Notwithstanding any other provisions of this Act or  
7 any other law, to offer any product or service that is at the  
8 time authorized or permitted to any insured savings  
9 association or out-of-state bank by applicable law, provided  
10 that powers conferred only by this subsection (25):

11 (a) shall always be subject to the same limitations  
12 and restrictions that are applicable to the insured  
13 savings association or out-of-state bank for the product  
14 or service by such applicable law;

15 (b) shall be subject to applicable provisions of  
16 the Financial Institutions Insurance Sales Law;

17 (c) shall not include the right to own or conduct a  
18 real estate brokerage business for which a license would  
19 be required under the laws of this State; and

20 (d) shall not be construed to include the  
21 establishment or maintenance of a branch, nor shall they  
22 be construed to limit the establishment or maintenance of  
23 a branch pursuant to subsection (11).

24 Not less than 30 days before engaging in any activity  
25 under the authority of this subsection, a bank shall provide  
26 written notice to the Commissioner of its intent to engage in  
27 the activity. The notice shall indicate the specific federal  
28 or state law, rule, regulation, or interpretation the bank  
29 intends to use as authority to engage in the activity.

30 (Source: P.A. 91-330, eff. 7-29-99; 91-849, eff. 6-22-00;  
31 92-483, eff. 8-23-01.)

32 (205 ILCS 5/18) (from Ch. 17, par. 325)

33 Sec. 18. Change in control.

1 (a) Before a change may occur in the ownership of  
2 outstanding stock of any State bank, whether by sale and  
3 purchase, gift, bequest or inheritance, or any other means,  
4 including the acquisition of stock of the State bank by any  
5 bank holding company, which will result in control or a  
6 change in the control of the bank or before a change in the  
7 control of a holding company having control of the  
8 outstanding stock of a State bank whether by sale and  
9 purchase, gift, bequest or inheritance, or any other means,  
10 including the acquisition of stock of such holding company by  
11 any other bank holding company, which will result in control  
12 or a change in control of the bank or holding company, or  
13 before a transfer of substantially all the assets or  
14 liabilities of the State bank, the Commissioner shall be of  
15 the opinion and find:

16 (1) that the general character of proposed  
17 management or of the person desiring to purchase  
18 substantially all the assets or to assume substantially  
19 all the liabilities of the State bank, after the change  
20 in control, is such as to assure reasonable promise of  
21 successful, safe and sound operation;

22 (1.1) that depositors' interests will not be  
23 jeopardized by the purchase or assumption and that  
24 adequate provision has been made for all liabilities as  
25 required for a voluntary liquidation under Section 68 of  
26 this Act;

27 (2) that the future earnings prospects of the  
28 person desiring to purchase substantially all assets or  
29 to assume substantially all the liabilities of the State  
30 bank, after the proposed change in control, are  
31 favorable;

32 (3) that any prior involvement by the persons  
33 proposing to obtain control, to purchase substantially  
34 all the assets, or to assume substantially all the

1 liabilities of the State bank or by the proposed  
2 management personnel with any other financial  
3 institution, whether as stockholder, director, officer or  
4 customer, was conducted in a safe and sound manner; and

5 (4) that if the acquisition is being made by a bank  
6 holding company, the acquisition is authorized under the  
7 Illinois Bank Holding Company Act of 1957.

8 (b) Persons desiring to purchase control of an existing  
9 state bank, to purchase substantially all the assets, or to  
10 assume substantially all the liabilities of the State bank  
11 shall, prior to that purchase, submit to the Commissioner:

12 (1) a statement of financial worth;

13 (2) satisfactory evidence that any prior  
14 involvement by the persons and the proposed management  
15 personnel with any other financial institution, whether  
16 as stockholder, director, officer or customer, was  
17 conducted in a safe and sound manner; and

18 (3) such other relevant information as the  
19 Commissioner may request to substantiate the findings  
20 under subsection (a) of this Section.

21 A person who has submitted information to the  
22 Commissioner pursuant to this subsection (b) is under a  
23 continuing obligation until the Commissioner takes action on  
24 the application to immediately supplement that information if  
25 there are any material changes in the information previously  
26 furnished or if there are any material changes in any  
27 circumstances that may affect the Commissioner's opinion and  
28 findings. In addition, a person submitting information under  
29 this subsection shall notify the Commissioner of the date  
30 when the change in control is finally effected.

31 The Commissioner may impose such terms and conditions on  
32 the approval of the change in control application as he deems  
33 necessary or appropriate.

34 If an applicant, whose application for a change in

1 control has been approved pursuant to subsection (a) of this  
2 Section, fails to effect the change in control within 180  
3 days after the date of the Commissioner's approval, the  
4 Commissioner shall revoke that approval unless a request has  
5 been submitted, in writing, to the Commissioner for an  
6 extension and the request has been approved.

7 (b-1) Any person who obtains ownership of stock of an  
8 existing State bank or stock of a holding company that  
9 controls the State bank by gift, bequest, or inheritance such  
10 that ownership of the stock would constitute control of the  
11 State bank or holding company may obtain title and ownership  
12 of the stock, but may not exercise management or control of  
13 the business and affairs of the bank or vote his or her  
14 shares so as to exercise management or control unless and  
15 until the Commissioner approves an application for the change  
16 of control as provided in subsection (b) of this Section.

17 (c) Whenever a state bank makes a loan or loans,  
18 secured, or to be secured, by 25% or more of the outstanding  
19 stock of a state bank, the president or other chief executive  
20 officer of the lending bank shall promptly report such fact  
21 to the Commissioner upon obtaining knowledge of such loan or  
22 loans, except that no report need be made in those cases  
23 where the borrower has been the owner of record of the stock  
24 for a period of one year or more, or the stock is that of a  
25 newly organized bank prior to its opening.

26 (d) The reports required by subsections (b) and (c) of  
27 this Section 18, other than those relating to a transfer of  
28 assets or assumption of liabilities, shall contain the  
29 following information to the extent that it is known by the  
30 person making the report: (1) the number of shares involved;  
31 (2) the names of the sellers (or transferors); (3) the names  
32 of the purchasers (or transferees); (4) the names of the  
33 beneficial owners if the shares are registered in another  
34 name: (5) the purchase price, if applicable; (6) the total

1 number of shares owned by the sellers (or transferors), the  
2 purchasers (or transferees) and the beneficial owners both  
3 immediately before and after the transaction; and, (7) in the  
4 case of a loan, the name of the borrower, the amount of the  
5 loan, the name of the bank issuing the stock securing the  
6 loan and the number of shares securing the loan. In addition  
7 to the foregoing, such reports shall contain such other  
8 information which is requested by the Commissioner to inform  
9 the Commissioner of the effect of the transaction upon  
10 control of the bank whose stock is involved.

11 (d-1) The reports required by subsection (b) of this  
12 Section 18 that relate to purchase of assets and assumption  
13 of liabilities shall contain the following information to the  
14 extent that it is known by the person making the report: (1)  
15 the value, amount, and description of the assets transferred;  
16 (2) the amount, type, and to whom each type of liabilities  
17 are owed; (3) the names of the purchasers (or transferees);  
18 (4) the names of the beneficial owners if the shares of a  
19 purchaser or transferee are registered in another name; (5)  
20 the purchase price, if applicable; and, (6) in the case of a  
21 loan obtained to effect a purchase, the name of the borrower,  
22 the amount and terms of the loan, and the description of the  
23 assets securing the loan. In addition to the foregoing,  
24 these reports shall contain any other information that is  
25 requested by the Commissioner to inform the Commissioner of  
26 the effect of the transaction upon the bank from which assets  
27 are purchased or liabilities are transferred.

28 (e) Whenever such a change as described in subsection  
29 (a) of this Section 18 occurs, each state bank shall report  
30 promptly to the Commissioner any changes or replacement of  
31 its chief executive officer or of any director occurring in  
32 the next 12 month period, including in its report a statement  
33 of the past and current business and professional  
34 affiliations of the new chief executive officer or directors.

1 (f) (Blank).

2 (g) (1) Except as otherwise expressly provided in this  
3 subsection (g), the Commissioners shall not approve an  
4 application for a change in control if upon consummation  
5 of the change in control the persons applying for the  
6 change in control, including any affiliates of the  
7 persons applying, would control 30% or more of the total  
8 amount of deposits which are located in this State at  
9 insured depository institutions. For purposes of this  
10 subsection (g), the words "insured depository  
11 institution" shall mean State banks, national banks, and  
12 insured savings associations. For purposes of this  
13 subsection (g), the word "deposits" shall have the  
14 meaning ascribed to that word in Section 3(1) of the  
15 Federal Deposit Insurance Act. For purposes of this  
16 subsection (g), the total amount of deposits which are  
17 considered to be located in this State at insured  
18 depository institutions shall equal the sum of all  
19 deposits held at the main banking premises and branches  
20 in the State of Illinois of State banks, national banks,  
21 or insured savings associations. For purposes of this  
22 subsection (g), the word "affiliates" shall have the  
23 meaning ascribed to that word in Section 35.2 of this  
24 Act.

25 (2) Notwithstanding the provisions of subsection  
26 (g)(1) of this Section, the Commissioner may approve an  
27 application for a change in control for a bank that is in  
28 default or in danger of default. Except in those  
29 instances in which an application for a change in control  
30 is for a bank that is in default or in danger of default,  
31 the Commissioner may not approve a change in control  
32 which does not meet the requirements of subsection (g)(1)  
33 of this Section. The Commissioner may not waive the  
34 provisions of subsection (g)(1) of this Section, whether

1           pursuant to Section 3(d) of the federal Bank Holding  
2           Company Act of 1956 or Section 44(d) of the Federal  
3           Deposit Insurance Act, except as expressly provided in  
4           this subsection (g)(2).

5           (h) As used in this Section, the term "control" means  
6           the power, directly or indirectly, to direct the management  
7           or policies of the bank or to vote 25% or more of the  
8           outstanding stock of the bank. ~~the ownership of such amount~~  
9           ~~of stock or ability to direct the voting of such stock as to,~~  
10           ~~directly or indirectly, give power to direct or cause the~~  
11           ~~direction of the management or policies of the bank. A~~  
12           ~~change in ownership of stock that would result in direct or~~  
13           ~~indirect ownership by a stockholder, an affiliated group of~~  
14           ~~stockholders, or a holding company of less than 10% of the~~  
15           ~~outstanding stock shall not be considered a change in~~  
16           ~~control. A change in ownership of stock that would result in~~  
17           ~~direct or indirect ownership by a stockholder, an affiliated~~  
18           ~~group of stockholders, or a holding company of 20% or such~~  
19           ~~lesser amount that would entitle the holder by applying~~  
20           ~~cumulative voting to elect one director shall be presumed to~~  
21           ~~constitute a change of control for purposes of this Section~~  
22           18. If there is any question as to whether a change in the  
23           ~~ownership or control of the outstanding stock is sufficient~~  
24           ~~to result in obtaining control thereof or to effect a change~~  
25           in the control application should be filed thereof, the  
26           question shall be resolved in favor of filing the application  
27           with ~~reporting the facts to~~ the Commissioner.

28           As used in this Section, "substantially all" the assets  
29           or liabilities of a State bank means that portion of the  
30           assets or liabilities of a State bank such that their  
31           purchase or transfer will materially impair the ability of  
32           the State bank to continue successful, safe, and sound  
33           operations or to continue as a going concern or would cause  
34           the bank to lose its federal deposit insurance.

1           As used in this Section, "purchase" includes a transfer  
2 by gift, bequest, inheritance, or any other means.  
3 (Source: P.A. 92-483, eff. 8-23-01.)

4           (205 ILCS 5/46) (from Ch. 17, par. 357)

5           Sec. 46. Misleading practices and names prohibited;  
6 penalty.

7           (a) No person, firm, partnership, or corporation that is  
8 not a bank shall transact business in this State in a manner  
9 which has a substantial likelihood of misleading the public  
10 by implying that the business is a bank, or shall use the  
11 word "bank", "banker", or "banking" in connection with the  
12 business. Any person, firm, partnership or corporation  
13 violating this Section shall be deemed guilty of a Class A  
14 misdemeanor, and the Attorney General or State's Attorney of  
15 the county in which any such violation occurs may restrain  
16 such violation by a complaint for injunctive relief.

17           (b) If the Commissioner is of the opinion and finds that  
18 a person, firm, partnership, or corporation that is not a  
19 bank has transacted or intends to transact business in this  
20 State in a manner which has a substantial likelihood of  
21 misleading the public by implying that the business is a  
22 bank, or has used or intends to use the word "bank",  
23 "banker", or "banking" in connection with the business, then  
24 the Commissioner may direct that person, firm, partnership,  
25 or corporation to cease and desist from transacting the  
26 business or using the word "bank", "banker", or "banking".  
27 If that person, firm, partnership, or corporation persists in  
28 transacting the business or using the word "bank", "banker",  
29 or "banking", then the Commissioner may impose a civil  
30 penalty of up to \$10,000 for each violation. Each day that  
31 the person, firm, partnership, or corporation continues  
32 transacting the business or using the word "bank", "banker",  
33 or "banking" in connection with the business shall constitute

1 a separate violation of these provisions.

2 (c) A person, firm, partnership, or corporation that is  
3 not a bank, and is not transacting or intending to transact  
4 business in this State in a manner that has a substantial  
5 likelihood of misleading the public by implying that such  
6 business is a bank, may apply to the Commissioner for  
7 permission to use the word "bank", "banker", or "banking" in  
8 connection with the business. If the Commissioner determines  
9 that there is no substantial likelihood of misleading the  
10 public, and upon such conditions as the Commissioner may  
11 impose to prevent the person, firm, partnership, or  
12 corporation from holding itself out in a misleading manner,  
13 then such person, firm, partnership, or corporation may use  
14 the word "bank", "banker", or "banking".

15 (d) (1) Unless otherwise expressly permitted by  
16 law, no person, firm, partnership, or corporation may use  
17 the name of an existing bank, ~~or a name deceptively~~  
18 ~~similar to that of an existing bank,~~ when marketing to or  
19 soliciting business from customers or prospective  
20 customers if the reference to the existing bank is made  
21 (i) without the consent of the existing bank and (ii) ~~in~~  
22 ~~a manner that could cause a reasonable person to believe~~  
23 ~~that the marketing material or solicitation originated~~  
24 ~~from or is endorsed by the existing bank or that the~~  
25 ~~existing bank is in any other way responsible for the~~  
26 ~~marketing material or solicitation.~~

27 (1.5) Unless otherwise expressly permitted by law,  
28 no person, firm, partnership, or corporation may use a  
29 name similar to that of an existing bank when marketing  
30 to or soliciting business from customers or prospective  
31 customers if the similar name is used in a manner that  
32 could cause a reasonable person to believe that the  
33 marketing material or solicitation originated from or is  
34 endorsed by the existing bank or that the existing bank

1 is in any other way responsible for the marketing  
2 material or solicitation.

3 (2) An existing bank may, in addition to any other  
4 remedies available under the law, report an alleged  
5 violation of this subsection (d) to the Commissioner. If  
6 the Commissioner finds the marketing material or  
7 solicitation in question to be in violation of this  
8 subsection, the Commissioner may direct the person, firm,  
9 partnership, or corporation to cease and desist from  
10 using that marketing material or solicitation in  
11 Illinois. If that person, firm, partnership, or  
12 corporation persists in the use of the marketing material  
13 or solicitation, then the Commissioner may impose a civil  
14 penalty of up to \$10,000 for each violation. Each  
15 instance in which the marketing material or solicitation  
16 is sent to a customer or prospective customer shall  
17 constitute a separate violation of these provisions. The  
18 Commissioner is authorized to promulgate rules to  
19 administer these provisions.

20 (3) (Blank) Nothing---in---this---subsection---(d)  
21 prohibits--the--use--of--or--reference--to--the--name--of--an  
22 existing-bank-in-marketing--materials--or--solicitations,  
23 provided--that--the--use--or--reference--would--not--deceive--or  
24 confuse--a--reasonable--person--regarding---whether---the  
25 marketing-material-or-solicitation-originated-from-or-was  
26 endorsed--by--the--existing--bank-or-whether-the-existing  
27 bank-was-in-any-other-way-responsible-for--the--marketing  
28 material-or-solicitation.--The-Commissioner-is-authorized  
29 to-promulgate-rules-to-administer-these-provisions.

30 (Source: P.A. 92-476, eff. 8-23-01.)

31 (205 ILCS 5/48.4)

32 Sec. 48.4. Administrative liens for past-due child  
33 support. Any bank governed by this Act shall encumber or

1 surrender accounts or assets held by the bank on behalf of  
2 any responsible relative who is subject to a child support  
3 lien, upon notice of the lien or levy of the Illinois  
4 Department of Public Aid or its successor agency pursuant to  
5 Section 10-25.5 of the Illinois Public Aid Code, or upon  
6 notice of interstate lien or levy from any other state's  
7 agency responsible for implementing the child support  
8 enforcement program set forth in Title IV, Part D of the  
9 Social Security Act.

10 (Source: P.A. 90-18, eff. 7-1-97; 90-655, eff. 7-30-98.)

11 Section 15. The Illinois Savings and Loan Act of 1985 is  
12 amended by changing Section 1-6d as follows:

13 (205 ILCS 105/1-6d)

14 Sec. 1-6d. Administrative liens for past-due child  
15 support. Any association governed by this Act shall encumber  
16 or surrender accounts or assets held by the association on  
17 behalf of any responsible relative who is subject to a child  
18 support lien, upon notice of the lien or levy of the Illinois  
19 Department of Public Aid or its successor agency pursuant to  
20 Section 10-25.5 of the Illinois Public Aid Code, or upon  
21 notice of interstate lien or levy from any other state's  
22 agency responsible for implementing the child support  
23 enforcement program set forth in Title IV, Part D of the  
24 Social Security Act.

25 (Source: P.A. 90-18, eff. 7-1-97.)

26 Section 20. The Savings Bank Act is amended by changing  
27 Sections 7007 and 8015 as follows:

28 (205 ILCS 205/7007)

29 Sec. 7007. Administrative liens for past-due child  
30 support. Any savings bank governed by this Act shall

1 encumber or surrender accounts or assets held by the savings  
 2 bank on behalf of any responsible relative who is subject to  
 3 a child support lien, upon notice of the lien or levy of the  
 4 Illinois Department of Public Aid or its successor agency  
 5 pursuant to Section 10-25.5 of the Illinois Public Aid Code,  
 6 or upon notice of interstate lien or levy from any other  
 7 state's agency responsible for implementing the child support  
 8 enforcement program set forth in Title IV, Part D of the  
 9 Social Security Act.

10 (Source: P.A. 90-18, eff. 7-1-97.)

11 (205 ILCS 205/8015) (from Ch. 17, par. 7308-15)  
 12 Sec. 8015. Change in control.

13 (a) Any person, whether acting directly or indirectly or  
 14 through or in concert with one or more persons, shall give  
 15 the Commissioner 60 days written notice of intent to acquire  
 16 control of a savings bank or savings bank affiliate operating  
 17 under this Act. The Commissioner shall promulgate rules to  
 18 implement this provision including definitions, application,  
 19 procedures, standards for approval or disapproval.

20 (b) The Commissioner may examine the books and records  
 21 of any person giving notice of intent to acquire control of a  
 22 savings bank operating under this Act.

23 (c) The Commissioner may approve or disapprove an  
 24 application for change of control. ~~In--either-case, the~~  
 25 ~~decision-must-be-issued-within-30-days-of-the-filing--of--the~~  
 26 ~~initial--application-or-the-date-of-receipt-of-any-additional~~  
 27 ~~information-requested-by-the-Commissioner-that--is--necessary~~  
 28 ~~for--his--decision--to--be--made.--The-request-for-additional~~  
 29 ~~information-must-be-made-within-20-days-of-the-filing-of--the~~  
 30 ~~initial-application.~~

31 (Source: P.A. 92-483, eff. 8-23-01.)

32 Section 25. The Consumer Deposit Account Act is amended

1 by adding Section 3.5 as follows:

2 (205 ILCS 605/3.5 new)

3 Sec. 3.5. Notification to consumer of invalidated  
4 routing number. At least 30 days before a financial  
5 institution invalidates a routing number on a consumer  
6 deposit account, whether as a result of a merger, purchase  
7 and acquisition, or other transaction, the institution shall  
8 send a notice to each affected consumer deposit account  
9 holder advising the holder of the invalidation and the effect  
10 it will have on the account. The notice shall include, but  
11 shall not be limited to, the following information: the date  
12 on which the routing number will no longer be effective;  
13 procedures necessary to ensure that electronic funds  
14 transfers, including direct deposits, are processed  
15 correctly; and information on ordering new checks, debit  
16 cards, and similar items.

17 Section 30. The Electronic Fund Transfer Act is amended  
18 by changing Sections 20 and 45 as follows:

19 (205 ILCS 616/20)

20 Sec. 20. Powers and duties of Commissioner. The  
21 Commissioner shall have the following powers and duties:

22 (1) to promulgate reasonable rules in accordance with  
23 the Illinois Administrative Procedure Act for the  
24 administration of this Act;

25 (2) to issue orders for the enforcement of this Act and  
26 any rule promulgated under this Act;

27 (3) to appoint hearing officers ~~or--arbitrators~~ to  
28 exercise any delegated powers;

29 (4) to subpoena witnesses, compel their attendance,  
30 administer oaths, examine any person under oath, and require  
31 the production of any relevant books, papers, accounts, and

1 documents in the course of and pursuant to any investigation  
2 conducted or action taken by the Commissioner; and

3 (5) to conduct hearings, ~~and~~

4 ~~(6) to arbitrate disputes as provided in subsection (c)~~  
5 ~~of Section 45 of this Act.~~

6 (Source: P.A. 89-310, eff. 1-1-96.)

7 (205 ILCS 616/45)

8 Sec. 45. Nondiscriminatory access.

9 (a) Subject to the provisions of Section 35 of this Act,  
10 use of a terminal through access to a switch and use of any  
11 switch shall be available on a nondiscriminatory basis to any  
12 switch or financial institution that has its principal place  
13 of business within this State. The terms and conditions of  
14 use shall be governed by a written agreement between the  
15 network and the financial institution or other switch  
16 obtaining the use. The written agreement shall specify all  
17 of the terms and conditions under which the network may be  
18 utilized, including commercially reasonable fees and charges.  
19 ~~In case of a dispute under the terms of the written~~  
20 ~~agreement, the parties shall be deemed to have agreed to~~  
21 ~~accept the Commissioner as final arbitrator unless the~~  
22 ~~aggrieved party seeks court action.~~

23 (b) The use and operation of each terminal served by a  
24 switch shall be governed by a written agreement between the  
25 network and the person establishing the terminal. The  
26 written agreement shall specify all the terms and conditions  
27 under which the network provides service to the terminal,  
28 including commercially reasonable fees and charges. ~~In case~~  
29 ~~of a dispute under the terms of the written agreement, the~~  
30 ~~parties shall be deemed to have agreed to accept the~~  
31 ~~Commissioner as final arbitrator unless the aggrieved party~~  
32 ~~seeks court action.~~

33 (c) (Blank). ~~The Commissioner shall have the power to~~

1 arbitrate disputes arising under (1) contracts, in accordance  
 2 with the terms of those contracts, governing the use,  
 3 operation, and access to switches and terminals, and (2) the  
 4 use, operation, and access to switches and terminals. Any  
 5 decision by the Commissioner in connection with any  
 6 arbitration shall be determined only after an opportunity for  
 7 a hearing and shall be subject to judicial review pursuant to  
 8 the provisions of the Administrative Review Law and the rules  
 9 adopted pursuant to that Law. Anything to the contrary in  
 10 this Act notwithstanding, any right of arbitration granted  
 11 under this Act is subject to the right of either party to  
 12 seek court action.

13 (Source: P.A. 89-310, eff. 1-1-96.)

14 Section 35. The Corporate Fiduciary Act is amended by  
 15 changing Sections 3-2, 4A-15, and 5-2 as follows:

16 (205 ILCS 620/3-2) (from Ch. 17, par. 1553-2)

17 Sec. 3-2. Change in control.

18 (a) Before a change may occur in the ownership of  
 19 outstanding stock or membership interests of any trust  
 20 company whether by sale and purchase, gift, bequest or  
 21 inheritance, or any other means, which will result in control  
 22 or a change in the control of the trust company or before a  
 23 change in the control of a holding company having control of  
 24 the outstanding stock or membership interests of a trust  
 25 company whether by sale and purchase, gift, bequest or  
 26 inheritance, or any other means, which will result in control  
 27 or a change in control of the trust company or holding  
 28 company, the Commissioner shall be of the opinion and find:

29 (1) that the general character of its proposed  
 30 management, after the change in control, is such as to  
 31 assure reasonable promise of competent, successful, safe  
 32 and sound operation;

1           (2) that the future earnings prospects, after the  
2 proposed change in control, are favorable; and

3           (3) that the prior business affairs of the persons  
4 proposing to obtain control or by the proposed management  
5 personnel, whether as stockholder, director, member,  
6 officer, or customer, were conducted in a safe, sound,  
7 and lawful manner.

8           (b) Persons desiring to purchase control of an existing  
9 trust company and persons obtaining control by gift, bequest  
10 or inheritance, or any other means shall submit to the  
11 Commissioner:

12           (1) a statement of financial worth; and

13           (2) satisfactory evidence that the prior business  
14 affairs of the persons and the proposed management  
15 personnel, whether as stockholder, director, officer, or  
16 customer, were conducted in a safe, sound, and lawful  
17 manner.

18           (c) Whenever a bank makes a loan or loans, secured, or  
19 to be secured, by 25% or more of the outstanding stock of a  
20 trust company, the president or other chief executive officer  
21 of the lending bank shall promptly report such fact to the  
22 Commissioner upon obtaining knowledge of such loan or loans,  
23 except that no report need be made in those cases where the  
24 borrower has been the owner of record of the stock for a  
25 period of one year or more, or the stock is that of a  
26 newly-organized trust company prior to its opening.

27           (d) (1) Before a purchase of substantially all the  
28 assets and an assumption of substantially all the liabilities  
29 of a trust company or before a purchase of substantially all  
30 the trust assets and an assumption of substantially all the  
31 trust liabilities of a trust company, the Commissioner shall  
32 be of the opinion and find:

33           (i) that the general character of the acquirer's  
34 proposed management, after the transfer, is such as to

1 assure reasonable promise of competent, successful, safe,  
2 and sound operation;

3 (ii) that the acquirer's future earnings prospects,  
4 after the proposed transfer, are favorable;

5 (iii) that any prior involvement by the acquirer or  
6 by the proposed management personnel, whether as  
7 stockholder, director, officer, agent, or customer, was  
8 conducted in a safe, sound, and lawful manner;

9 (iv) that customers' interests will not be  
10 jeopardized by the purchase and assumption; and

11 (v) that adequate provision has been made for all  
12 obligations and trusts as required under Section 7-1 of  
13 this Act.

14 (2) Persons desiring to purchase substantially all the  
15 assets and assume substantially all the liabilities of a  
16 trust company or to purchase substantially all the trust  
17 assets and assume substantially all the trust liabilities of  
18 a trust company shall submit to the Commissioner:

19 (i) a statement of financial worth; and

20 (ii) satisfactory evidence that the prior business  
21 affairs of the persons and the proposed management  
22 personnel, whether as stockholder, director, officer, or  
23 customer, were conducted in a safe, sound, and lawful  
24 manner.

25 (e) The reports required by subsections (a),(b), (c),  
26 and (d) of this Section 3-2 shall contain the following  
27 information to the extent that it is known by the person  
28 making the report: (1) the number of shares involved; (2) the  
29 names of the sellers (or transferors); (3) the names of the  
30 purchasers (or transferees); (4) the names of the beneficial  
31 owners if the shares are registered in another name; (5) the  
32 purchase price; (6) the total number of shares owned by the  
33 sellers (or transferors), the purchasers (or transferees) and  
34 the beneficial owners both immediately before and after the

1 transaction; and, (7) in the case of a loan, the name of the  
 2 borrower, the amount of the loan, and the name of the trust  
 3 company issuing the stock securing the loan and the number of  
 4 shares securing the loan. In addition to the foregoing, such  
 5 reports shall contain such other information as may be  
 6 available and which is requested by the Commissioner to  
 7 inform the Commissioner of the effect of the transaction upon  
 8 the trust company or trust companies whose stock or assets  
 9 and liabilities are involved.

10 (f) Whenever such a change as described in subsection  
 11 (a) of this Section 3-2 occurs, each trust company shall  
 12 report promptly to the Commissioner any changes or  
 13 replacement of its chief executive officer or of any director  
 14 occurring in the next 12 month period, including in its  
 15 report a statement of the past and current business and  
 16 professional affiliations of the new chief executive officer  
 17 or directors.

18 (g) The provisions of this Section do not apply when the  
 19 change in control is the result of organizational  
 20 restructuring under a holding company.

21 (h) As used in this Section, the term "control" means  
 22 the power, directly or indirectly, to direct the management  
 23 or policies of the trust company or to vote 25% or more of  
 24 the outstanding stock of the trust company. ~~ownership-of-such~~  
 25 ~~amount-of-stock-or-membership-interests-or-ability-to-direct~~  
 26 ~~the-voting-of-such-stock-or-membership-interests-as-to,~~  
 27 ~~directly-or-indirectly,-give-power-to-direct-or-cause-the~~  
 28 ~~direction-of-the-management-or-policies-of-the-trust~~  
 29 ~~company.-A-change-in-ownership-of-stock-that-would-result-in~~  
 30 ~~direct-or-indirect-ownership-by-a-stockholder-or-member,-an~~  
 31 ~~affiliated-group-of-stockholders-or-members,-or-a-holding~~  
 32 ~~company-of-less-than-10%-of-the-outstanding-stock-or~~  
 33 ~~membership-interests-shall-not-be-considered-a-change-of~~  
 34 ~~control.-A-change-in-ownership-of-stock-or-membership~~

1 interests--that-would-result-in-direct-or-indirect--ownership  
 2 by--a--stockholder--or--member,--an---affiliated---group---of  
 3 stockholders--or-members,--or-a-holding-company-of-20%-or-such  
 4 lesser-amount-which-would--entitle--the--holder--by--applying  
 5 cumulative--voting-to-elect-one-director-shall-be-presumed-to  
 6 constitute-a-change-of-control-for-purposes-of-this--Section.  
 7 If there is any question as to whether a change in the  
 8 ownership-or-control-of-the-outstanding-stock--or--membership  
 9 interests--is--sufficient--to--result--in--obtaining--control  
 10 thereof--or--to--effect--a--change-in-the control application  
 11 should be filed thereof, the question shall be resolved in  
 12 favor of filing the application with reporting-the-facts-to  
 13 the Commissioner.

14 As used in this Section, "substantially all" the  
 15 assets or liabilities or the trust assets or trust  
 16 liabilities of a trust company means that portion such that  
 17 their transfer will materially impair the ability of the  
 18 trust company to continue successful, safe, and sound  
 19 operations or to continue as a going concern.

20 (Source: P.A. 92-483, eff. 8-23-01.)

21 (205 ILCS 620/4A-15)

22 Sec. 4A-15. Representative offices. A foreign  
 23 corporation not conducting fiduciary activities may establish  
 24 a representative office under the Foreign Bank Representative  
 25 Office Act. At these offices, the foreign corporation may  
 26 market and solicit fiduciary services and provide back bank  
 27 office and administrative support to the foreign  
 28 corporation's fiduciary activities, but it may not engage in  
 29 fiduciary activities.

30 (Source: P.A. 92-483, eff. 8-23-01.)

31 (205 ILCS 620/5-2) (from Ch. 17, par. 1555-2)

32 Sec. 5-2. Examinations of corporate fiduciaries.

1           (a) The Commissioner, no less frequently than 18 months  
2 following the preceding examination, and whenever in his  
3 judgment it is necessary or expedient, either personally or  
4 by one or more competent persons appointed by him, shall  
5 visit and examine every corporate fiduciary in this State and  
6 may, to the extent the Commissioner determines necessary,  
7 examine the affairs of the corporate fiduciary's  
8 subsidiaries, affiliates, parent companies and contractual  
9 service providers for fiduciary services of the corporate  
10 fiduciary as shall be necessary to fully disclose the  
11 condition of such subsidiaries, affiliates, parent companies  
12 and contractual service providers and the relation between  
13 the corporate fiduciary and such subsidiaries, affiliates,  
14 parent companies and contractual service providers and the  
15 effect of such relations upon the affairs of such corporate  
16 fiduciary. Instead of the Commissioner making the  
17 examination provided by this subsection or appointing a  
18 competent person to do so, the Commissioner may accept on an  
19 alternating basis the examination made by the corporate  
20 fiduciary's appropriate federal regulatory agency, provided  
21 the appropriate federal regulatory agency has made such an  
22 examination. Fiduciary services shall include, but not be  
23 limited to, clerical, accounting, bookkeeping, statistical,  
24 data processing, safekeeping or similar functions for a  
25 corporate fiduciary.

26           (b) The Commissioner and every such examiner may  
27 administer an oath to any person whose testimony is required  
28 on any such examination, and compel the appearance and  
29 attendance of any such person for the purpose of examination,  
30 by summons, subpoena or attachment, in the manner now  
31 authorized in respect to the attendance of persons as  
32 witnesses in the circuit court; and all books and papers  
33 which are necessary to be examined by the Commissioner or  
34 examiner so appointed shall be produced, and their production

1 may be compelled in like manner.

2 (c) The expense of every examination, if any, shall be  
3 paid by the corporate fiduciary examined, in such amount as  
4 the Commissioner certifies to be just and reasonable.

5 (d) On every examination, inquiry shall be made as to  
6 the condition and resources of the corporate fiduciary  
7 generally, the mode of conducting and managing its affairs,  
8 the action of its directors or trustees, the investments of  
9 its funds, the safety and prudence of its management, the  
10 security afforded to those by whom its engagements are held,  
11 and whether the requirements of its charter and of the laws  
12 have been complied with in the administration of its affairs.  
13 The nature and condition of the assets in or investment of  
14 any bonus, pension, or profit sharing plan for officers or  
15 employees of a corporate fiduciary shall be deemed to be  
16 included in the affairs of that corporate fiduciary subject  
17 to examination by the Commissioner.

18 (e) Whenever any corporate fiduciary causes to be  
19 performed, by contract or otherwise, any fiduciary services  
20 for itself, whether on or off its premises:

21 (1) such performance shall be subject to  
22 examination by the Commissioner to the same extent as if  
23 the services were being performed by the corporate  
24 fiduciary itself on its own premises; and

25 (2) the corporate fiduciary shall notify the  
26 Commissioner of the existence of the service  
27 relationship. Such notification shall be submitted  
28 within 30 days after the making of such service contract,  
29 or the performance of the service, whichever occurs  
30 first. The Commissioner shall be notified of each  
31 subsequent contract in the same manner.

32 For purposes of this subsection (e), the term "fiduciary  
33 services" shall include such services as the computation and  
34 posting of interest and other credits and charges;

1 preparation and mailing of checks, statements, notices and  
2 similar items; clerical, bookkeeping, accounting, statistical  
3 or similar functions; and any other function which the  
4 corporate fiduciary, in the ordinary course of its business,  
5 could have performed itself.

6 Any report of examination pursuant to this Section and  
7 any copies thereof shall be the property of the Commissioner,  
8 confidential and may only be disclosed under the  
9 circumstances set forth in Section 48.3 of the Illinois  
10 Banking Act, as now or hereafter amended.

11 (Source: P.A. 89-364, eff. 8-18-95; 90-301, eff. 8-1-97.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law."